

Application No. 10/578,340
Amendment
Reply to Office Action of November 15, 2007

PATENT

REMARKS/ARGUMENTS

Claims 15-28 are pending in this application. Claims 1-14 were previously canceled. Claims 15 and 22 have been amended.

Applicant also thanks the Examiner and her Supervisor for the telephone interview on October 8, 2008, during which the undersigned inquired as to the meaning of the comment that "the priority date set forth by the Applicant is not properly appointed", which was as explained as meaning that the disclosure of 09/378,181 does not fully support the claims of the current application and, as a result thereof, the present application was not given the priority date of August 20, 1999. In what respect 09/378,181 does not support the claims was not discussed during the telephone conference. Also not discussed was the fact that the present application claims the priority of the PCT application that led to Lapanashvili and that the priority claim to the PCT application is effective, and further that the PCT application fully supports the claims herein, particularly independent claims 15 and 22.

Claims 15-17, 20-24 and 27-28 were rejected for anticipation by Lapanashvili (WO 2001/13990), and claims 18, 19, 25 and 26 were rejected for obviousness over the same reference in view of Minogue (US 2002/0058972).

Through a string of continuations and divisions as is set forth on page 2 of the ADS, the present application is a CIP and claims the priority of PCT/EP00/07933 filed August 14, 2000, and published as WO 2001/13990, the Lapanashvili reference over which the claims were rejected for anticipation or obviousness.

Independent claims 15 and 22 were amended to better conform them to the disclosure in Lapanashvili. Specifically, page 14, lines 10 and 11 of Lapanashvili disclose the new claim recitation that the offset lies in the range of "from 5 % of the R-R path length before the expected end of the T-wave up to 45 % of the R-R path length after the end of the T-wave" Page 61, lines 19-23 disclose that the "5 % of the R-R path" is before the "expected end of the T-wave"

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Thus, amended independent claims 15 and 22 are fully supported by Lapanashvili, and since the priority of Lapanashvili has been claimed herein, Lapanashvili is not an effective prior art reference against the present application in general, and claims 15 and 22 in particular.

The present application claims priority of U.S. Application No. 09/378,181. To whatever extent, if any, this earliest-filed application might not support or enable the claims, it does not affect applicant's reliance on the priority of WO 2001/13990 and that WO 2001/13990 is not effective prior art against claims 15 and 22, as well as the claims depending from them, for the reasons discussed above.

Thus, PCT Application PCT/EP00/07933, which was published as WO 2001/13990, fully supports the claims herein, including, in particular, independent claims 15 and 22. Even if the claims were not entitled to the priority date of Application No. 09/378,181, they are entitled to the priority of PCT/EP00/07933. As a result, Lapanashvili is not an effective prior art reference.

Applicant therefore requests that the anticipation and obviousness rejections of claims 15-28 be withdrawn and that this application be allowed.

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CONCLUSION

In view of the foregoing, applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 273-4730 (direct dial).

Respectfully submitted,



J. Georg Seka
Reg. No. 24,491

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
JGS:jhw
61598708 v1